

REMARKS/ARGUMENTS

Prior to the entry of this amendment, claims 1, 2, 4-15 and 17-22 were pending in this application. Claims 1, 2, 4-15 and 17-22 are amended herein. No claims are added or canceled herein. Therefore, claims 1, 2, 4-15 and 17-22 remain pending in the application. The Applicants respectfully request reconsideration of these claims, as amended, for at least the reasons presented below.

35 U.S.C. §102 Rejection, de Vos

The Final Office Action rejected claims 1, 2, 4-15 and 17-22 under 35 U.S.C. §102(e) as being anticipated by the cited portions of U.S. Patent No. 6,167,044 to de Vos et al. (hereinafter "de Vos"). The Applicant respectfully submits the following arguments pointing out significant differences between claims 1, 2, 4-15 and 17-22 submitted by the Applicant and de Vos.

As an initial matter, a general distinction should be drawn between de Vos and the pending claims. The pending claims relate to distributing content, i.e., a video program and/or audio program as recited in each independent claim, and storing that content at a user location before the user requests that content. That is, the claims relate to pre-caching content such as a video or audio program, e.g., a commercial, an infomercial, a show, or a movie as recited as recited in claim 2, at a user location, e.g., the user's set top box as recited in claim 3. The "program" of de Vos cited previously is a software program, i.e., executable code, for displaying a menu through which a user can select content. Under de Vos, while the executable code for displaying the menu through which content may be selected can be sent to the user location prior to a selection from the user, the content itself, also referred to in de Vos as a "service item," is not sent to the user location until it is actually selected.

More specifically, under de Vos, "navigation data including a software program for displaying a menu of service items and identification data corresponding to each service item is downloaded preferably beforehand from at least one navigation device selected by the end

device." (Col. 5, lines 8-12) "The monitor of end device displays such a menu of the available service items and, if necessary, corresponding identification data thereof." (Col. 5, lines 12-15) "If a user selects a video and/or audio program through the input device from the menu by pointing the desired video program with a pointer in the monitor or by entering the identification data corresponding to the desired program, if displayed on the monitor, the identification data is supplied to the system manager by the end device via ATM switch." (Col. 5, lines 19-24) "The system manager down-loads a VOD-software program for end devices corresponding to a selected video program to the end device, after the system manager receives identification data from the set top box." (Col. 5, lines 39-42) That is, de Vos teaches providing executable code for presenting a menu or program guide to a user for selection and download of content. However, de Vos does not disclose commanding the end device to store content, i.e., a video or audio program, before a user specifically requests the content. Rather, under de Vos, it is only after the user specifically selects content from the menu that the content is downloaded to the users location.

Claim 1, upon which claims 2, 4-7, and 21-22 depend, is directed to a method for distributing content sent by a content distributor to a user location. Claim 14, upon which claims 15 and 17-20 depend, is directed to a distribution program product having code for distributing content sent by a content distributor to a user location. Both claim 1 and claim 14 recite in part "receiving a command from the content distributor to store the content at the user location before a user specifically requests the content, wherein the content comprises at least one of a video program or an audio program." de Vos does not disclose receiving a command from the content distributor to store content, i.e., a video or audio program, at the user location before a user specifically requests the content. Rather, de Vos teaches downloading executable code for presenting a menu or program guide to the user and downloading the content to the users location only after receiving a selection from the user. For at least these reasons, claims 1-2, 4-7, 14-15, and 17-22 are distinguishable from de Vos and should be allowed.

Claim 8, upon which claims 9-13 depend, is directed to a method for distributing content sent by a content distributor to a user location and recites in part "commanding the user location to store the content from the content distributor without a user associated with the user location specifically requesting the content" and "sending the content to the user location for storage before a user specifically requests the, wherein the content comprises at least one of a video program or an audio program." de Vos does not disclose commanding the user location to store the content from the content distributor without a user associated with the user location specifically requesting the content or sending the content to the user location for storage before a user specifically requests the content. Rather, de Vos teaches downloading executable code for presenting a menu or program guide to the user and downloading the content to the users location only after receiving a selection from the user. For at least these reasons, claims 8-13 are distinguishable from de Vos and should be allowed.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance and an action to that end is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,



William J. Daley
Reg. No. 52,471

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: 303-571-4000
Fax: 303-571-4321
WJD:sbm
60679344 v1